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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/695,410

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Sixten Johansson

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466

7590

07/21/2009

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EXAMINER

TRAN, PHUC H

ART UNIT

PAPER NUMBER

2416

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/695,410	<b>Applicant(s)</b> JOHANSSON, SIXTEN	
	<b>Examiner</b> PHUC H. TRAN	<b>Art Unit</b> 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. In view of the Appeal brief filed on 4/21/2009, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 6-8, 11-18, and 20-21, are rejected under 35 U.S.C. 102(e) as being anticipated by Kanekar et al. (U.S. Patent NO. 6751191).

- With respect to claims 1, 13-15 and 18, Kanekar teaches system for performing a switch- over in data communication within a data computer device (e.g. Fig. 14B shows switch over within a computer device 1402) in accordance with protection switching data communication principles, said system comprising said data computing device arranged to operate in a data network according to the protection switching data communication principles (e.g. the system protects data in network as show in Fig. 1), the data computing device comprising:

a configurable integrated circuit of a unit of said data computing device for signaling a need for the switch-over in real time based data communication to a configurable integrated circuit of a protecting pair unit of said unit of said data computing device (e.g. Fig. 12A shows when the master fails which signal to slave as step 1202),  
wherein said configurable integrated circuit of said protecting pair unit of said data computing

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device is structured and arranged to perform the switch-over independently of a CPU, when the switch-over is needed (e.g. Fig. 14 shows the switch-over without CPU), and wherein said data computing device is arranged to operate in a data network according to the protection switching data communication principles and contains both the configurable integrated circuit of said unit and said configurable integrated circuit of said protecting pair unit (e.g. Fig. 14 show the protection data and the pair unit).

- With respect to claim 2, Kanekar teaches wherein the system provides the signaling between the units without a participation of the CPU (e.g. Fig. 12A shows when the master fails which signal to slave as step 1202 without the CPU).

- With respect to claim 6, Kanekar teaches, wherein the signal comprises a protection message for delivering that the data communication of a receiving unit is at least one of faulty and unfaulty (e.g. the signal between master and slave router as show in Fig. 5).

- With respect to claim 7, Kanekar explicitly teaches wherein the real time based data communication presumes the switch-over to take place in less than 50 milliseconds from an occurrence of a connection fault (see col. 5, lines 49-60, it inherently understand that switch-over of Kanekar is less than 50ms).

- With respect to claim 8, Kanekar discloses wherein the data communication comprises at least one of Internet Protocol, Ethernet, and MPLS for real time telecommunication services (e.g. IP address discloses in the summary).

- With respect to claim 11, Kanekar teaches wherein the real time based data communication is such that human senses any application based on the real time based data communication substantially immediate (see col. 5, lines 49-60).

- With respect to claim 12, Kanekar discloses wherein the data communication takes place between a source computing entity and a sink computing entity (see Fig. 14).

- With respect to claim 16, Kanekar further teaches before the step of signaling the step of detecting a connection fault in the data communication at the unit (e.g. the step 1200 in fig. 12A).

- With respect to claims 17 and 21, Kanekar teaches the step of receiving the need at the protecting pair unit and performing the switch over by activating the data communication on the protecting pair unit (e.g. steps 1202-1212 receive the signal and performing switchover).

- With respect to claims 19-20, Kanekar discloses wherein said unit comprises a card and said protecting pair unit comprises another card (e.g. routers in fig. 14 are cards).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5, 9-10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanekar et al. (U.S. Patent NO. 6751191) in view of Shabtay et al. (U.S. Patent No. 7093027)).

- With respect to claims 3 and 22, Kanekar discloses all the aspect of the claimed invention as set forth above but fails to teach wherein the configurable integrated circuit comprises at least one of application-specific integrated circuit and field- programmable gate array. Shabtay discloses the configurable integrated circuit comprises at least one of application-

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specific integrated circuit and field- programmable gate array (e.g. col. 10, line 11). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the FPGA into Kanekar for communication between user.

- With respect to claims 4-5 and 9-10, Kanekar discloses all the aspect of the claimed invention as set forth above but fails to teach wherein the protection switching comprises a protected LSP based on a working connection and a protecting connection and wherein Multiprotocol Label Switching is contained as a bearer for the data communication. Shabtay teaches wherein the protection switching comprises a protected LSP based on a working connection and a protecting connection (see col. 8, lines 47-56; col. 9, lines 19-21) and wherein Multiprotocol Label Switching is contained as a bearer for the data communication (see col. 1, lines 25-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the LSP and MLSP into Kanekar for communication between user.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571)272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PHUC H TRAN/  
Primary Examiner, Art Unit 2416

/Chi H Pham/  
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2416